

1 William A. Smelko SBN 96970  
 2 WILLIAM A. SMELKO, APC  
 3 3333 Camino Del Rio South, Suite 140  
 San Diego, CA 92108  
 4 PH: (619) 236-0800  
 FAX: (619) 236-0888  
 E: wasmelko@aol.com

5 UNITED STATES BANKRUPTCY COURT  
 6 SOUTHERN DISTRICT OF CALIFORNIA

7 IN RE: ) CASE NUMBER: 10-0570-MM-11  
 8 Fanita Ranch, LP, a California )  
 Limited Partnership ) DEBTOR-IN-POSSESSION'S PLAN OF  
 ) REORGANIZATION DATED JULY 6, 2010  
 10 Debtor )  
 ) Hearing Date: N/A  
 ) Hearing Time: N/A  
 ) Department: 1  
 ) Judge: Hon. Margaret Mann  
 12 )  
 )  
 )

13 FANITA RANCH, LP, A CALIFORNIA LIMITED PARTNERSHIP (the  
 14 "Company"), debtor and debtor in possession submits this Plan of  
 15 Reorganization Dated July 6, 2010, pursuant to §1121(a) of the  
 16 Bankruptcy Code and requests confirmation of the Plan pursuant to  
 17 §1129 of the Bankruptcy Code. Reference is made to the Disclosure  
 18 Statement for a discussion: (1) of the Company's history, business,  
 19 and results of operations and properties; (2) regarding the  
 20 reorganization process; and (3) of a summary and analysis of the Plan  
 21 and confirmation related matters. All holders of claims entitled to  
 22 vote to accept or reject the Plan should read the Plan and Disclosure  
 23 Statement in their entirety before voting to accept or reject the  
 24 Plan. No solicitation materials, other than the Disclosure Statement  
 25 and the materials transmitted with it have been approved by the  
 26 Bankruptcy Court for use in soliciting acceptances or rejections of  
 27 the Plan. The Company is the proponent of the Plan within the  
 28 meaning of Bankruptcy Code §1129.

1           **ARTICLE I: DEFINITIONS & RULES OF CONSTRUCTION.**

2           **A. Definitions.**

3           For the purposes of the Plan, the following terms shall have the  
 4           respective meanings set forth in this Article I. Any term used in  
 5           this Plan not defined herein, but used in the Bankruptcy Code or the  
 6           Bankruptcy Rules, shall have the meaning assigned to that term in the  
 7           Bankruptcy Code or the Bankruptcy Rules.

8           **1. "Accounts Payable Post-Petition Claim"** means Claims of third  
 9           parties arising after the Petition Date for the purchase of  
 10          merchandise, supplies, utilities and other non-employee related  
 11          expenses incurred in the ordinary course of business.

12          **2. "Administrative Claim"** means a Claim for costs and expenses  
 13          of administration under §§503, 507(a)(1), 507(b) or 1114(e)(2)  
 14          of the Bankruptcy Code, including: (a) the actual and necessary  
 15          costs and expenses incurred after the commencement of the  
 16          Chapter 11 Case for preserving the Company's Estate and operating  
 17          the Company's business such as wages, salaries or commissions for  
 18          services); (b) compensation for legal, accounting and other  
 19          services and reimbursement of expenses awarded or allowed under  
 20          Bankruptcy Code §§330(a) or 331; (c) all payments made to cure  
 21          defaults under executory contracts and leases the Company has  
 22          assumed; and (d) all fees and charges assessed against the  
 23          Company under §1930 of title 28 of the United States Code.

24          **3. "Allowed"** when used with respect to a Claim other than an  
 25          Administrative Claim, means a Claim: (a) either, (i) scheduled by  
 26          the Company pursuant to the Bankruptcy Code, other than a Claim  
 27          scheduled as disputed, contingent, or unliquidated, or (ii)  
 28          proof of which has been timely filed pursuant to the Bankruptcy

Code and any order of the Bankruptcy Court, or late filed with leave of the Bankruptcy Court after notice and a hearing; and as to which (b) either: (i) no objection to the allowance of which has been filed within the periods of limitation fixed by the Plan or an order of the Bankruptcy Court, (ii) any objection to the allowance of which has been overruled by a Final Order, or (iii) which has otherwise been Allowed by a Final Order or this Plan only to the extent that it has been so Allowed.

4. **"Allowed Administrative Claim"** means all or that portion of any Administrative Claim which either: (a) has become Allowed by a Final Order; or (b) was incurred in the ordinary course of business during the Case, is not disputed by the Company and is due and owing under the terms and conditions of any agreements or applicable law.

5. **"Amount"** means, with respect to: (i) an Allowed Claim, the Amount of such Allowed Claim; and (ii) with respect to a Disputed Claim, the estimated Amount of such Disputed Claim, determined in accordance with Plan Article VIII, ¶2.

6. **"Bankruptcy Code" or "Code"** means the Bankruptcy Reform Act of 1978, as amended and codified in title 11 United States Code, 11 U.S.C. §§101-1330, and applicable to cases filed as of the Petition Date.

7. **"Bankruptcy Court"** means the United States Bankruptcy Court for the Southern District of California or such other court as may have jurisdiction over the Chapter 11 Case.

8. **"Bankruptcy Rules"** means the Federal Rules of Bankruptcy Procedure, as amended from time to time, and any local Bankruptcy Court rules.

1       **9. "Bar Date"** means July 31, 2010, the bar date for filing certain  
2                    proofs of Claim or Interest in the Chapter 11 Case.

3       **10 "Business Days"** means each Monday, Tuesday, Wednesday, Thursday  
4                    and Friday, which is not a day on which banking institutions in New  
5                    York, New York, are authorized or obligated by law, governmental  
6                    decree, or executive order to be closed.

7       **11 "Chapter 11 Case"** means that case filed in the Bankruptcy Court  
8                    entitled "In re Fanita Ranch, LP, a California Limited  
9                    Partnership, Debtor," Case No. 10-05750-MM-11, under Chapter 11,  
10                  Title 11 of the Bankruptcy Code.

11       **12 "Cash"** shall mean United States currency, a certified check, a  
12                  cashier's check or a wire transfer of good funds from any source,  
13                  or a check from the Reorganized Company.

14       **13 "Claim"** means a claim against the Company as defined in Code  
15                  §101(5).

16       **14 "Claimant"** means the holder of a Claim.

17       **15 "Class"** means a class of Claims against or Interests in the  
18                  Company.

19       **16 "Company"** means Fanita Ranch, LP, a California Limited Partnership.

20       **17 "Confirmation"** means the entry of the Confirmation Order.

21       **18 "Confirmation Hearing Date"** means the hearing before the  
22                  Bankruptcy Court on Plan Confirmation and any continued hearing  
23                  date(s).

24       **19 "Confirmation Order"** means the order issued by the Bankruptcy Court  
25                  confirming the Plan.

26       **20 "Consummation Date"** means the Business Day on which all conditions  
27                  to Plan consummation set forth in Article X are satisfied or  
28                  waived.

1       **21 "Damages"** means any loss, liability, claim, damage, expense  
2       (including, without limitation, costs of investigation and defense and  
3       reasonable attorneys' fees and expenses) or diminution of value.

4       **22 "Disclosure Statement"** means the Disclosure Statement (and all  
5       exhibits and schedules annexed to or referenced in the Disclosure  
6       Statement) relating to the Plan that was approved pursuant to Code  
7       §1125 by a Bankruptcy Court order entered on the Disclosure  
8       Statement approval date, as amended, modified or supplemented.

9       **23 "Disputed Claim"** means, for the purpose of receiving Plan  
10      distributions: (a) a Claim, as to which, if no proof of Claim has  
11      been Filed by the Bar Date or has otherwise been deemed timely Filed  
12      under applicable law and such Claim has been scheduled by the  
13      Company in its schedule of liabilities as other than disputed,  
14      contingent or unliquidated, the Company has Filed an objection by  
15      the Effective Date; or (b) a Claim as to which, if a proof of  
16      Claim has been Filed by the Bar Date or has otherwise been deemed  
17      timely Filed under applicable law, an objection has been timely  
18      Filed by the Company or any other party in interest and such  
19      objection has not been withdrawn on or before any date fixed by the  
20      Plan or order of the Bankruptcy Court for Filing such objections  
21      and such objection has not been denied by a Final Order. For the  
22      purpose of receiving Plan Distributions, a Claim or Claims  
23      asserted in a proof of claim shall be considered a Disputed Claim  
24      in its entirety if an objection is timely filed to any portion of  
25      such Claim or Claims.

26       **24 "Disputed Claims Reserve Account"** means the Amount of Cash or other  
27      property that would have been distributed to Allowed Disputed  
28      Claims.

1       **25 "Distribution"** means the distribution of Cash or other property  
2 required under the Plan.

3       **26 "Distribution Fund"** means the fund established pursuant to the  
4 Plan, out of which certain Distributions will be made.

5       **27 "Distribution Record Date"** means the first Business Day: (a) that  
6 is at least eleven (11) days after the date of Confirmation; (b) on  
7 which no stay of the Confirmation Order is in effect; and (c) on  
8 which all conditions to the Consummation Date have been satisfied or  
9 waived.

10      **28 "Effective Date"** means the earlier of: (a) the date which is  
11 30 days following the closing of escrow of the sale of the  
12 Company's Real Property; or (b) if the Confirmation Order is  
13 appealed but not stayed, the date on which the Plan Proponent files  
14 with the Bankruptcy Court a statement that the Plan will be  
15 consummated notwithstanding the appeal.

16      **29 "Election Date"** means the date to be fixed by the Court for Claim  
17 or Interest Holders to elect the type of Plan Treatment they will  
18 receive after confirmation.

19      **30 "Excess Reserve"** means any Unclaimed Distributions described in  
20 Plan Article VIII(A).

21      **31 "Filed"** means filed with the Bankruptcy Court in the Company's  
22 Case.

23      **32 "Final Order"** means an order or a judgment which has not been  
24 reversed or stayed and as to which: (i) the time to appeal or seek  
25 review, rehearing or certiorari has expired; and (ii) no appeal or  
26 petition for review, rehearing or certiorari is pending.

27      **33 "General Unsecured Claims"** means all Unsecured Claims not entitled  
28 to priority, and excluding the Westbrook Fanita Ranch, L.P. and

1                   Guaranty Bank as Administrative Agent for Guaranty Bank and  
2                   Wachovia Bank, N.A. ("Guaranty") Unsecured Claims.

3                   **34 "General Unsecured Creditors"** means holders of General Unsecured  
4                   Claims excluding the holders of Code §506 Bifurcated Claims.

5                   **35 "Interests"** means the legal, equitable and contractual rights  
6                   represented by any Company equity security defined in Code  
7                   §101(16), and includes any references to any pre-petition or post  
8                   confirmation Interests.

9                   **36 "Legal Proceeding(s)"** means a judicial, administrative, or  
10                  arbitration actions, suits, proceedings (public or private), Claims  
11                  or governmental proceedings.

12                  **37 "Lien"** means with respect to any property: any perfected mortgage,  
13                  lien, pledge, charge, security interest or encumbrance of any kind.

14                  **38 "Petition Date"** means April 7, 2010.

15                  **39 "Plan"** means the Debtor in Possession's Plan of Reorganization Dated  
16                  July 6, 2010, including, without limitation, any modifications or  
17                  amendments thereto.

18                  **40 "Postpetition Accrued Wages and Other Claims"** means Claims arising  
19                  after the Petition Date for employee or management related costs  
20                  incurred in the ordinary course of business, including salaries,  
21                  commissions, management fees, payroll withholdings and contributions  
22                  to any employee benefit plans.

23                  **41 "Priority Claims"** means Claims that have priority under Code  
24                  §507(a)(2)(3) or (4).

25                  **42 "Professionals"** means all professionals, firms, or entities  
26                  employed in the Chapter 11 Case pursuant to Code §§327 or 1103, and  
27                  all professionals seeking compensation or reimbursement of expenses  
28                  pursuant to Code §503(b)(4).

1       **43 "Pro Rata"** means with respect to Allowed Claims or Interests in the  
2       same Class, the proportion that the dollar amount of an Allowed  
3       Claim or Interest bears to the aggregate dollar amount of all  
4       Allowed Claims or Interests of that Class or group of Interests.

5       **44 "Real Property"** means that certain real property commonly known  
6       as the Fanita Ranch Property located in Santee, California.

7       **45 "Reorganized Company"** means the Company as reorganized under the  
8       Plan.

9       **46 "Reserve Amounts"** means the Amount of Cash or other property  
10      required to be deposited in the Disputed Claims Reserve Account, on  
11      account of Disputed Claims.

12      **47 "Secured Claim"** means a Claim to the extent of the value of any  
13      Lien on or security interest in property of the Company that  
14      secures payment of such Claim.

15      **48 "Tax Claim"** means an Allowed priority Claim for taxes of the kind  
16      specified in Code §507(a)(8).

17      **49 "Tax Code"** means the Internal Revenue Code of 1986, as  
18      amended.

19      **50 "Unclaimed Distribution(s)"** means those Distributions held by  
20      the Disbursing Agent for the benefit of the holders of Allowed  
21      Claims who have failed to request and acquire such Distributions.

22      **51 "Unsecured Claim(s)"** means all unsecured claims against the  
23      Company, except an Unsecured Westbrook LP or Guaranty Claim, not  
24      entitled to priority under Code §507(a).

25      **52 "Unsecured Westbrook LP Claim"** means an Allowed unsecured claim  
26      against the Company, arising from the unsecured portion of  
27      Westbrook LP's claim, not entitled to priority under Code §507(a) in  
28      an amount to be determined by the Bankruptcy Court.

1       **53 "Unsecured Guaranty Claim"** means an Allowed unsecured claim  
2       against the Company, arising from the unsecured portion of the  
3       Guaranty Claim not entitled to priority under Bankruptcy Code  
4       §507(a) in an amount to be determined by the Bankruptcy Court.

5       **B. Rules of Interpretation, Computation of Time and Governing Law.**

6       **1 Rules of Interpretation:**

7           a.      The words "herein, "hereof, "hereto," "hereunder" and others  
8       of similar usage refer to this Plan as a whole and not to any  
9       particular article, section, subsection, paragraph or clause contained  
10      in this Plan, unless a particular reference is stated.

11           b.      Any reference to the word "on" shall mean "on or  
12      about."

13           c.      Any reference to the word "including" shall mean "including  
14      without limitation."

15           d.      Unless specified otherwise in a particular reference, a  
16       reference in this Plan to a particular article, section, subsection or  
17       paragraph of this Plan is a reference only to that article, section,  
18       subsection or paragraph.

19           e.      Any reference in this Plan to a document being in a particular  
20       form means that the document shall be in substantially such form.

21           f.      Any reference in this Plan to an existing document means  
22       such document as it may have been amended, modified or supplemented from  
23       time to time prior to the date hereof, unless a particular reference  
24       is stated.

25           g.      Whenever it is appropriate in context, each term stated in  
26       either the singular or the plural shall include both the singular and  
27       the plural.

1 h. In addition to the foregoing, the rules of construction set  
 2 forth in Code §102 shall apply to this Plan.

3 i. All exhibits and schedules to the Disclosure Statement are  
 4 incorporated into the Plan, and shall be deemed to be included in the  
 5 Disclosure Statement, as well, regardless of when they are filed.

6 **C. Computation of Time.**

7 In computing any period of time prescribed or allowed by this  
 8 Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

9 **ARTICLE II: CLASSIFICATION OF CLAIMS OR INTERESTS.**

10 All Claims and Interests, except for Administrative Claims and  
 11 Tax Claims, are placed in the Classes set forth below. In accordance  
 12 with Code §1123(a)(1), Administrative Claims and Tax Claims have not  
 13 been classified. A Claim or Interest shall be deemed classified in a  
 14 particular Class only to the extent that the Claim or Interest  
 15 qualifies within the description of that Class and shall be deemed  
 16 classified in a different Class to the extent that any remainder  
 17 qualifies within the description of such different Class. A Claim or  
 18 Interest is in a particular Class only to the extent that the Claim or  
 19 Interest is an Allowed Claim or Allowed Interest.

20 **A. Unclassified Claims.**

- 21 1. Administrative Claims.  
 22 2. Tax Claims.

23 **B. Class 1.**

24 Class 1 consists of the Allowed Secured Claim of Westbrook L.P. or  
 25 its successor(s) in interest, if any.

26 **C. Class 2.**

27 Class 2 consists of the Allowed Secured Claim of Guaranty, if any.

1           **D. Class 3.**

2       Class 3 consists of the Allowed Westbrook LP §506 Bifurcated  
3       Claims, if any.

4           **E. Class 4.**

5       Class 4 consists of the Allowed Guaranty §506 Bifurcated Claims.

6           **F. Class 5.**

7       Class 5 consists of all Allowed Unsecured Claims not included in  
8       Class 3 or Class 4.

9           **G. Class 6.**

10      Class 6 consists of the Allowed Interests in the Company comprised  
11      of all existing Membership Interests as of the Filing Date.

12       **H. Class 7.**

13      Class 7 consists of the Allowed Unsecured Priority Claims.

14      **ARTICLE III: DESIGNATION AND TREATMENT OF UNCLASSIFIED CLAIMS.**

15      The following sets forth the designation and treatment of all  
16      Unclassified Claims. The Distributions received pursuant to the  
17      provisions set forth in this Article III shall represent full and  
18      final satisfaction of all such unclassified Claims.

19       **A. Administrative Claims.**

20       **1. Description.** Allowed Administrative Claims are all costs and  
21       expenses of administration of the Chapter 11 Case Allowed under  
22       Code §503(b), and referred to in Code §§507(a)(1) and 1114,  
23       including, without limitation, the actual and necessary costs  
24       and expenses of preserving the Company's Estate and operating  
25       its businesses, including wages, salaries, management fees or  
26       commissions for services rendered postpetition, any indebtedness  
27       or obligation incurred or assumed by the Company, as debtor-in-  
28       possession. The Plan Proponent estimates that the aggregated

1           Amount of Allowed Administrative Claims to be paid is  
 2           approximately \$65,000.

3       **2. Treatment.** On the Effective Date, or as soon thereafter as is  
 4           practical, each holder of an Allowed Administrative Claim except  
 5           for those: (i) holders of Allowed Accounts Payable Postpetition  
 6           Claims; and (ii) holders of Allowed Postpetition Accrued Wages  
 7           and Other Claims shall receive on account of such Allowed Claim,  
 8           payment in full in Cash from the Distribution Fund, unless  
 9           otherwise agreed. Each Professional employed at the expense of  
 10          the Company's Estate pursuant to Code §§327 and 1103 and an  
 11          appropriate order of the Bankruptcy Court, shall be paid the  
 12          unpaid portion of its Allowed Administrative Claim in Cash from  
 13          the Distribution Fund. Allowed Accounts Payable Postpetition  
 14          Claims and Allowed Postpetition Accrued Wages and Other Claims  
 15          shall receive payment in full in Cash from the Reorganized  
 16          Company in the ordinary course of business.

17       **B. Tax Claims.**

18       **1. Description.** Tax Claims consist of all Claims against the Company  
 19          entitled to priority under Code §507(a)(8). The Plan Proponent  
 20          estimates that the aggregate Allowed Amount of Tax Claims  
 21          approximate less than fifty thousand dollars (\$50,000.00)

22       **2. Treatment.** Unclassified priority tax creditors shall be paid on  
 23          account of their Claims, deferred cash payments commencing on  
 24          the Effective Date of the Plan and monthly thereafter for a  
 25          period not exceeding six years from the date of assessment, of a  
 26          value, as of the Effective Date of the Plan, equal to the allowed  
 27          amount of such claims. Such monthly payments shall include  
 28          interest at the rate provided by 26 U.S.C. §6621, and/or

1 California Revenue and Taxation Code §19269, as applicable, and  
 2 shall retain unaltered any liens that existed on the Petition  
 3 Date to secure payment of the Claims. The rate of interest  
 4 shall be sufficient to ensure that the value of the deferred  
 5 cash payments to be made to the holder of the Allowed Tax Claim  
 6 shall be, as of the Effective Date, equal to the amount of the  
 7 Allowed Tax Claim.

8 Notwithstanding the foregoing, the Reorganized Company may elect  
 9 at its option, and in its sole discretion, to prepay, without  
 10 penalty, and with interest accrued to the time of prepayment,  
 11 any Allowed Tax Claim in whole or in part on the Effective Date  
 12 or at such later time as it may select within six years from and  
 13 after the date of assessment.

14 **ARTICLE IV: DESIGNATION AND TREATMENT OF IMPAIRED CLASSES OF CLAIMS  
 15 AND INTERESTS.**

16 The following sets forth the designation and treatment of those  
 17 classified Claims and Interests set forth in Article II herein which  
 18 are impaired under the Plan. Each member of the impaired Classes set  
 19 forth in this Article IV is entitled to vote on the Plan. The  
 20 Distributions received pursuant to this Article IV shall represent full  
 21 and final satisfaction of all Allowed Claims.

22 **A. The Allowed Class 1 Secured Claim of Westbrook Fanita Ranch, L.P.**

23 **1. Description.** Class 1 consists of the Allowed Westbrook LP  
 24 Secured Claim in the amount to be determined by the Bankruptcy  
 25 Court, if any. The Allowed Westbrook LP Secured Claim, if any, is  
 26 allegedly secured by a first priority deed of trust security  
 27 interest in the Real Property. Westbrook LP claims that its  
 28 Allowed Secured Claim is oversecured. However, because the

1       validity of the security interest which Westbrook LP asserts in  
2       the Real Property is disputed, the Westbrook LP Secured Claim has  
3       been scheduled by the Debtor at \$0. Thus, the total amount owed  
4       to Westbrook LP as a Secured Creditor on the Petition Date was,  
5       according to the Company's calculations, nothing.

- 6       2. The Company believes that the fair market liquidation value of  
7       the Real Property in which Westbrook LP claims a security  
8       interest is \$36,000,000, meaning that if Westbrook LP's security  
9       interest is valid and enforceable, then Westbrook LP is an  
10      oversecured creditor. Regardless of the outcome of the lien  
11      avoidance action commenced by the Company against Westbrook LP,  
12      however, the maximum amount of any Allowed Secured Claim  
13      possessed by Westbrook, LP would be less than \$36,000,000,  
14      meaning that even in a liquidation scenario, Westbrook LP would  
15      be a fully secured creditor as defined in Code §506.
- 16       3. If Westbrook LP so elects by the Election Date, and if Westbrook  
17      LP possesses an Allowed Secured Claim, then Westbrook LP may  
18      receive treatment as a Class 3 Bifurcated Claimholder under the  
19      Plan. Should Westbrook LP so elect to receive Class 3 Treatment,  
20      then Westbrook LP shall not be entitled to receive Class 1  
21      Treatment. The Company believes that the fair market  
22      reorganization value of the Real Property which serves as the  
23      security for any potential Westbrook LP Allowed Secured Claim is  
24      approximately \$36,000,000, making Westbrook LP a fully  
25      oversecured creditor in reorganization as defined in Code §506  
26      should Westbrook LP in fact, possess an Allowed Secured Claim in  
27      any amount.

1           **4. Treatment.** The Class 1 Claimholder shall retain its Lien, if any,  
 2           on the Real Property or on any sales proceeds resulting from the  
 3           sale of the Real Property. The Class 1 Claim will be paid in full  
 4           through deferred Cash payments by, on or before the Fifth Annual  
 5           Anniversary Date of the Effective Date of the Plan through the  
 6           sale or refinancing of the Real Property, or as may be otherwise  
 7           agreed by Westbrook LP, or its successors-in-interest.

8           At minimum, the Class 1 Claimholder will be paid a sum equal to  
 9           the Allowed Secured Claim Amount as it exists on the Effective  
 10          Date of the Plan, if any, plus interest thereon calculated at the  
 11          rate of 5.5% per annum simple annual interest from the Petition  
 12          Date through the date of final payment.

13           **5. Voting.** The Class 1 Claimholder is impaired under the Plan and,  
 14          accordingly, the Class 1 Claimholder is entitled to vote on the  
 15          Plan.

16           **B. The Allowed Class 2 Secured Claim of Guaranty.**

17           **1. Description.** Class 2 consists of the Allowed Guaranty Secured  
 18          Claim, if any, in the amount to be determined by the Bankruptcy  
 19          Court. The Allowed Guaranty Secured Claim is secured by what is  
 20          allegedly a second priority deed of trust security interest in  
 21          the Real Property. Guaranty claims that its Allowed Secured  
 22          Claim is in the approximate amount of \$34,000,000. The Company  
 23          believes that the fair market liquidation value of the Real  
 24          Property which secures the Guaranty Allowed Secured Claim, if  
 25          any, is \$36,000,000, meaning that if the Company avoids the  
 26          Westbrook, LP lien, then Guaranty possesses a fully secured claim  
 27          and in liquidation would be a fully secured creditor as defined  
 28          in Code §506. If Guaranty so elects by the Election Date,

1           Guaranty may receive treatment as a Class 4 Bifurcated  
2           Claimholder under the Plan. Should Guaranty so elect to receive  
3           Class 4 Treatment, then Guaranty shall not be entitled to receive  
4           Class 2 Treatment.

5           **2.** The Company believes that the fair market reorganization value of  
6           the Real Property which serves as security for the repayment of  
7           the Guaranty Allowed Secured Claim is approximately \$36,000,000  
8           making Guaranty a fully oversecured creditor in reorganization as  
9           defined in Code §506.

10          **3. Treatment.** The Class 2 Claimholder shall retain its Lien, if any,  
11           on the Real Property or on any sales proceeds.

12          **4. Voting.** The Class 2 Claimholder is impaired under the Plan and,  
13           accordingly, the Class 2 Claimholder is entitled to vote on the  
14           Plan.

15          **C. The Allowed Class 3 Bifurcated Claim of Westbrook Fanita Ranch,  
16           L.P.**

17          **1. Description.** Class 3 consists of the unsecured portion of the  
18           Allowed Westbrook LP Partially Secured and Partially Unsecured  
19           Claim in the amount to be determined by the Bankruptcy Court. The  
20           Class 3 Claim consists of the Allowed Amount, if any, of the  
21           Westbrook LP Claim which is undersecured as defined in Code §506.  
22           The existence and amount of any Class 3 Claim will be determined  
23           by the Bankruptcy Court after notice and a hearing.

24          **2. Treatment.** The allowed amount of any Class 3 Claim will be paid  
25           by a Pro Rata distribution of available net proceeds resulting  
26           from the sale of the Real Property, if any. The Company may  
27           prepay the allowed amount of any Class 3 Claim in full without  
28           penalty.

1       **3. Voting.** The Class 3 Claimholder is impaired under the Plan and,  
2 accordingly, the Class 3 Claimholder is entitled to vote on the  
3 Plan.

4       **D. The Allowed Class 4 Bifurcated Claim of Guaranty.**

5       **1. Description.** Class 4 consists of the unsecured portion of the  
6 allowed amount of the Partially Secured and Partially Unsecured  
7 Claim possessed by Guaranty, if any, in the amount to be  
8 determined by the Bankruptcy Court. The Class 4 Claim consists of  
9 the Allowed Amount, if any, of the Guaranty Claim which is  
10 partially undersecured as defined in Code §506. The existence and  
11 amount of any Class 4 Claim will be determined by the Bankruptcy  
12 Court after notice and a hearing.

13       **2. Treatment.** The allowed amount of any Class 4 Claim will be paid  
14 by a Pro Rata distribution of available net proceeds resulting  
15 from the sale of the Real Property, if any. The Company may  
16 prepay the allowed amount of any Class 4 Claim in full without  
17 penalty.

18       **3. Voting.** The Class 4 Claimholder is impaired under the Plan and,  
19 accordingly, the Class 4 Claimholder is entitled to vote on the  
20 Plan.

21       **E. The Allowed Class 5 Unsecured Claims.**

22       **1. Description.** Class 5 consists of the Allowed Unsecured Claims in  
23 the amount to be determined by the Bankruptcy Court, excluding  
24 the Allowed Class 3 and Class 4 Bifurcated Unsecured claims.

25       **2. Treatment.** By, on or before the Fifth Annual Anniversary Date of  
26 the Effective Date of the Plan, the holders of allowed Class 5  
27 Unsecured Claims will receive a Pro Rata payment from the  
28 Reorganized Company.

1           **3. Voting.** The Class 5 Claimholders are impaired under the Plan  
 2           and, accordingly, the Class 5 Claimholders are entitled to vote  
 3           on the Plan.

4           **F. The Allowed Class 6 Interests.**

5           **1. Description.** Class 6 consists of the Allowed Membership Interests  
 6           of the Company existing on the Petition Date.

7           **2. Treatment.** Class 6 Interest holders will receive a Pro Rata  
 8           payment from the Reorganized Company of any sales proceeds  
 9           remaining after the Pro Rata payment to Class 5 Claimholders is  
 10          completed.

11          **3. Voting.** The Class 6 Interest Holders are impaired under the Plan  
 12          and, accordingly, the Class 6 Interest Holders are entitled to  
 13          vote on the Plan.

14          **ARTICLE V: DESIGNATION AND TREATMENT OF UNIMPAIRED CLAIMS.**

15          The following sets forth the designation and treatment of the  
 16          Class 7 class of Claims set forth herein which are unimpaired under  
 17          the Plan. Members of the unimpaired Class 7 set forth in this Article  
 18          V are not entitled to vote on the Plan. The Distributions received  
 19          pursuant to the provisions described in this Article V shall  
 20          represent full and final satisfaction of all Allowed Unimpaired Class  
 21          7 Claims.

22          **A. Description.** Class 7 consists of Allowed Priority Claims in the  
 23          Amount determined by the Bankruptcy Court, which is estimated to be  
 24          zero.

25          **B. Treatment.** The holders of Allowed Priority Claims shall be paid  
 26          in full in Cash by the Reorganized Company on the Effective Date or on  
 27          the date such Claim becomes an Allowed Claim.

28          **C. Voting.** Class 7 is unimpaired under the Plan and, accordingly,

1 the members of this Class are deemed to have accepted the Plan and  
 2 will not vote on the Plan.

3 **ARTICLE VI: MEANS FOR PLAN IMPLEMENTATION.**

4 **A. Means of Effectuating the Plan.**

5 The Real Property will be sold pursuant to Bankruptcy Court Order  
 6 under Code Section 363 free and clear of all liens, claims and  
 7 interests. The Reorganized Company will make the Distributions required  
 8 under the Plan to holders of Allowed Claims by using cash received  
 9 from the then existing cash assets of the Reorganized Company Account,  
 10 cash from operations, outside cash infusions, a new loan or loans to  
 11 be secured by a first priority deed of trust lien against the Real  
 12 Property, and/or the sale or refinancing of the Real Property. The  
 13 Reorganized Company will commit to the sale of the Real Property free  
 14 and clear of liens, claims and interests and will commit the  
 15 Reorganized Company's financial capability and capitalization to  
 16 consummate the Plan.

17 The Company will continue operating as the Reorganized Company.  
 18 After the Effective Date, the Reorganized Company will fund its  
 19 operations through existing cash balances, cash generated from  
 20 continuing operations and available borrowings and cash contributions.  
 21 The Reorganized Company's cash flow will be sufficient not only to  
 22 fund operating expenses, but all other estimated payments that may be  
 23 required under the Plan.

24 Funding the Plan:

25 The Distribution Fund will be funded with: (i) all cash generated  
 26 from the sale of the Real Property or from any rents collected from  
 27 tenants at the Real Property after the Petition Date and before the  
 28 Effective Date of the Plan, minus all previously paid post-petition

1 Company operating expenses, which will be placed into the Distribution  
2 Fund; (ii) all new value cash contributions received from existing  
3 Interest Holders willing to make new cash contributions to the  
4 Reorganized Company which will be placed into the Distribution Fund;  
5 and (iii) all litigation recoveries or other income or cash receipts  
6 collected by the Reorganized Company which will be placed in the  
7 Distribution Fund.

8 Three Reorganized Debtor bank accounts will be created on the  
9 Effective Date of the Plan: (1) the Operating Account; (2) the Tax  
10 Account; and (3) the Plan Payment Account. These accounts will be  
11 funded with all cash generated from the sale of the Real Property or  
12 from any rents collected by the Reorganized Company from tenants at  
13 the Real Property after the Effective Date of the Plan. All net sales  
14 proceeds and all gross rental income and other cash recoveries  
15 received by the Reorganized Company before or after the Effective Date  
16 of the Plan will be deposited into the Operating Account.

17 The Reorganized Company will deposit into the Tax Account from  
18 the Operating Account a sum sufficient to pay all Real Property taxes,  
19 and all state, local and federal income or franchise tax board taxes  
20 required to be paid under the Plan.

21 The Reorganized Company will pay all Monthly Operating Expenses  
22 of the Real Property within 30 days of the date such expenses are due  
23 for payment. Monthly Operating Expenses include, but are not limited  
24 to: (i) Insurance; (ii) Utilities; (iii) Real Property Repairs and  
25 Maintenance; (iv) Real Property building related expenses such as,  
26 without limitation, expenses or fees relating to or concerning  
27 parking, water, sewer, safety, landscaping, roof, painting, plumbing  
28

1 and gardening expenses; and (v) Property Management Fees and Property  
 2 Asset Management Fees.

3 Following the monthly funding of the Tax Account, and within 5  
 4 business days following the payment of all Monthly Operating Expenses,  
 5 the Reorganized Company will deposit into the Plan Payment Account,  
 6 the amount of the net funds received or collected by the Reorganized  
 7 Company needed to fund the monthly debt service payments required to  
 8 be made by the Reorganized Company to the holders of Class 1, Class 2,  
 9 Class 3, Class 4 and Class 5 Claims, and Class 6 Interests in the  
 10 Plan.

11 From the Plan Payment Account, the Reorganized Company will make  
 12 all Plan required payments to the holders of Class 1, Class 2, Class  
 13 3, Class 4 and Class 5 Claims and Class 6 Interests in the Plan.

14 **B. Managers, Directors and Officers.**

15 The managers, officers and directors identified and set forth in  
 16 the Disclosure Statement shall serve as the managers, officers and  
 17 directors of the Reorganized Company as of the Effective Date.

18 **C. Revesting of Property of the Estate.**

19 All property of the Estate as defined in Code §541 not  
 20 distributed to holders of Allowed Claims pursuant to the Plan shall  
 21 revest in the Reorganized Company on the Effective Date. Thereafter,  
 22 the Reorganized Company may operate its business and may use, acquire  
 23 and dispose of property free of any restrictions of the Bankruptcy  
 24 Code, the Bankruptcy Rules, and the Bankruptcy Court. As of the  
 25 Effective Date, all property of the Reorganized Company shall be free  
 26 and clear of all Claims and Interests, except as specifically  
 27 provided in the Plan or the Confirmation Order. In addition, in  
 28 accordance with Code §1123(b)(3), the Reorganized Company shall retain

1 and may pursue all rights and claims as it deems appropriate.  
2 Without limiting the foregoing, the Reorganized Company may,  
3 without application to or approval by the Bankruptcy Court, pay fees  
4 that it incurs after the Effective Date for Professional fees and  
5 expenses.

6 **D. Bar Date for Certain Administrative Claims.**

7 Except as otherwise provided in the Confirmation Order, all  
8 applications by Professionals for final compensation for services  
9 rendered and for reimbursement of expenses incurred on or before the  
10 Effective Date (including, without limitation, any compensation  
11 requested by any Professional or other entity for making a  
12 substantial contribution to the Chapter 11 Case) and all other  
13 requests for payment of Administrative Claims not otherwise Allowed  
14 but incurred before the Effective Date under Code §§507(a)(1 ) or  
15 507(b) (except only for Claims in trade debt incurred in the  
16 ordinary course of business and Claims under 28 U.S.C. §1930) shall  
17 be Filed no later than thirty (30) days after the Effective Date,  
18 unless such date is extended by order of the Bankruptcy Court  
19 entered upon motion Filed prior to the deadline hereunder, on notice  
20 to the Reorganized Company. Any such Claim that is not filed by the  
21 deadline shall be forever barred. Holders of Administrative Claims who  
22 are required to file applications or other requests for payment of  
23 such Claims and who do not do so timely shall be forever barred from  
24 asserting such Claims against the Reorganized Company or any other  
25 entity in connection with their respective activities in the  
26 Reorganized Case or any of their respective property. The Bankruptcy  
27 Court shall retain exclusive jurisdiction over any disputes concerning  
28 Administrative Claims as set forth in Paragraph A of Article XIV.

1           **E. Effectuating Documents; Further Transactions.**

2           The Manager, President, Chief Executive Officer, or any other  
3 appropriate agent or officer of the Company, shall be authorized to  
4 execute, deliver, file or record such contracts, instruments,  
5 releases, Interest Shares, Membership Shares, indentures, and other  
6 agreements or documents, and take such actions as may be necessary or  
7 appropriate to effectuate and further evidence the terms and  
8 conditions of the Plan. The Manager, Secretary or any other  
9 appropriate agent or officer of the Company shall be authorized to  
10 certify or attest to any of the foregoing actions, if necessary.

11           **F. Objections to Claims.**

12           Any Claim which is not timely objected to and which has not  
13 previously been disallowed, will be deemed to be an Allowed Claim upon  
14 the expiration of the applicable time for making an objection. A Claim  
15 which is timely objected to will be considered a Disputed Claim until  
16 such time as an order has been entered by the Bankruptcy Court and such  
17 order has become a Final Order.

18           Unless another date is established by the Bankruptcy Court, all  
19 objections to Claims shall be filed and served on the holders of such  
20 Claims by the later of: (i) ninety (90) days after the Effective Date;  
21 and (ii) ninety (90) days after the particular Proof of Claim has been  
22 filed, except as extended by: (a) an agreement between the Claimant and  
23 the Company, if the Proof of Claim is filed before the Effective Date,  
24 (b) an agreement between the Claimant and the Reorganized Company if  
25 the Proof of Claim is filed after the Effective Date; or (c) by order  
26 of the Bankruptcy Court upon application by the Reorganized Company.

1           **ARTICLE VII: ACCEPTANCE OR REJECTION OF THE PLAN; EFFECT OF REJECTION**  
 2           **BY ONE OR MORE CLASSES OF CLAIMS OR INTERESTS.**

3           **A. Classes Entitled to Vote**

4           Each Impaired Class shall be entitled to vote to accept or reject  
 5           the Plan. Any Unimpaired Class of Claims shall be deemed to have  
 6           accepted the Plan and shall not be entitled to vote to accept or  
 7           reject the Plan.

8           **B. Class Acceptance Requirement.**

9           Under Code §1126 an impaired Class of Claims has accepted the  
 10          Plan if the holders of at least two-thirds (2/3) in dollar Amount and  
 11          more than one-half (1/2) in number of the Allowed Claims of such Class  
 12          who have voted on the Plan, have voted to accept the Plan.

13          Under Code §1126(d), an impaired Class of Interests has accepted  
 14          the Plan if the holders of at least two-thirds (2/3) in Amount of the  
 15          Interests of such Class who have voted on the Plan, have voted to  
 16          accept the Plan.

17           **C. Cramdown.**

18          To the extent necessary, the Company requests Plan Confirmation  
 19          as the Plan may be modified from time to time, under Code §1129(b).

20           **ARTICLE VIII: DISTRIBUTIONS UNDER THE PLAN.**

21           **A. Plan Distributions.**

22           **1. The Initial Distributions.**

23          On the Effective Date of the Plan or as soon thereafter as is  
 24          practical, the Reorganized Company shall make the Distributions  
 25          and payments required under the Plan and deposit the Reserve  
 26          Amounts in the Disputed Claims Reserve Accounts to the extent  
 27          required by the Bankruptcy Court in respect of Disputed Claims.

1           **2. Treatment of Disputed Claims.**

2           If in Class 5, there exist with respect to General Unsecured  
3           Claims, as of the Effective Date or any relevant date  
4           thereafter, any Disputed Claims, the Reorganized Company shall  
5           hold in the Disputed Claims Reserve Account and reserve all Pro  
6           Rata Distributions to which such holder of a Disputed Claim would  
7           otherwise be entitled to receive on the Effective Date, for the  
8           benefit of such holder, in either: (a) the Pro Rata amount of  
9           the claim to be paid based on the full Amount claimed by the  
10          holder of such Claim; or (b) the Pro Rata amount of the Claim to  
11          be paid based on the Amount of such Claim as estimated or  
12          allowed by Bankruptcy Court Order, provided, however, that no  
13          reserve shall be necessary on account of unliquidated Class 5  
14          Claims and such Claims shall become disallowed, unless and until  
15          the holder of such Claim shall obtain a Bankruptcy Court Order  
16          estimating such Claim for the purpose of calculating a proper  
17          reserve prior to the allowance thereof by Bankruptcy Court  
18          Order. No Claimant shall be entitled to recover any  
19          Distributions made to holders of Allowed Claims regardless of  
20          any delay in obtaining an order allowing or estimating a  
21          Disputed Claim or an unliquidated Claim. The Reorganized Company  
22          shall have the responsibility of liquidating and/or otherwise  
23          resolving General Unsecured Claims which are Disputed Claims.  
24          After a Final Order has been entered or other final resolution  
25          has been reached with respect to all Disputed Claims, the  
26          Reorganized Company shall distribute each Claimant's percentage  
27          share in accordance with the Plan, but in no event no later  
28          than sixty (60) days after the entry of such order, pursuant to

1 the terms of the order allowing the Claim and the terms of this  
2 Plan, with any Distributions reserved by the Reorganized Company  
3 in an Amount greater than that required to be distributed as a  
4 result of the order allowing such Disputed Claim becoming property  
5 of the Reorganized Company for Distribution Pro Rata to the  
6 respective holders of Allowed General Unsecured Claims in Class  
7 5.

8 The Claim of Westbrook LP is disputed by the Company and its  
9 members against Westbrook LP due to its acts and omissions  
10 before the Petition Date in connection with its note and trust  
11 deed against the Real Property. An adversary proceeding was  
12 filed against Westbrook LP to assert those claims. All rights  
13 and claims of the Plan Proponent against Westbrook LP, or  
14 against any other person or entity, shall pass to the Reorganized  
15 Company. The right to suspend Plan payments to Westbrook LP  
16 during the pendency of this litigation is reserved to the  
17 Reorganized Company unless otherwise ordered by the Bankruptcy  
18 Court.

19 **3. Unclaimed Distributions.**

20 **a. Safeguarding Unclaimed Distributions.**

21 All Unclaimed Distributions shall be held by the Reorganized  
22 Company in the Distribution Fund for the later of one hundred and  
23 eighty (180) days following the date of Distribution or the date upon  
24 which the Claim is Allowed. Such Distributions shall be held solely  
25 for the benefit of the holders of Allowed Claims and Allowed  
26 Administrative Claims who have failed to claim such Distributions and  
27 shall be released from the Distribution Fund and delivered to such  
28 holder, net of any taxes or other applicable charges required to be

1 paid by the Reorganized Company in respect thereof, upon presentation  
2 of proper proof by such holder of its entitlement thereto.

3 **b. Release of Unclaimed Distributions.**

4 After one hundred and eighty (180) days, the Unclaimed  
5 Distributions (including interest thereon) may be released by the  
6 Reorganized Company from the Distribution Fund and in such case they  
7 shall constitute an Excess Reserve.

8 **c. Excess Reserves.**

9 All Excess Reserves shall be distributed to holders of Allowed  
10 Class 5 Claims or Class 6 Interests, Pro Rata.

11 **B. Form of Distributions.**

12 Any cash payment to be made pursuant to the Plan may be made by  
13 a check or wire transfer or as otherwise required.

14 **C. Rounding.**

15 Fractions of cents will not be distributed. Therefore, whenever  
16 a payment of a fraction of a cent would otherwise be called for, the  
17 actual payment shall reflect a rounding of such fraction down to the  
18 nearest whole cent.

19 **D. Remedies Upon Default.**

20 The Reorganized Company will have a number of obligations which  
21 it must perform in order to consummate the Plan. Many of these  
22 obligations will be required to be performed on or shortly after the  
23 Effective Date of the Plan. The obligations under the Plan include  
24 such things as: (1) paying allowed administrative, priority and  
25 convenience claims; (2) making payments to secured creditors; and (3)  
making Distributions to Unsecured Creditors.

27 If there is an inability on the part of Reorganized Company to  
28 substantially consummate the Plan, or if there is a material default

1 by the Reorganized Company with respect to the Plan, any creditor,  
 2 party in interest or the United States trustee may request the  
 3 Bankruptcy Court to: (1) convert the bankruptcy case to a case under  
 4 Chapter 7 of the Bankruptcy Code; or (2) dismiss the bankruptcy case.  
 5 Upon such request, and if appropriate cause is shown, the Bankruptcy  
 6 Court may convert or dismiss the case, whichever is in the best  
 7 interest of creditors and the estate. If the cause for conversion or  
 8 dismissal is the failure to make a required payment under the Plan,  
 9 a creditor or party in interest must give the Reorganized Company  
 10 thirty (30) days written notice of the default in the Plan payment and  
 11 the opportunity to cure the default. If the Reorganized Company fails  
 12 to cure the default, a motion to dismiss or convert may be filed. In  
 13 addition, a creditor or party in interest may exercise any other rights  
 14 under any applicable law.

**ARTICLE IX: TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES.**

All executory contracts and unexpired leases set forth in Exhibit "G" to the Disclosure Statement shall be assumed by the Company, pursuant to Code §§365 and 1123. All other executory contracts or unexpired leases, if any, shall be rejected. Any party to an executory contract or unexpired lease that is rejected shall be required to file a Proof of Claim with the Bankruptcy Court no later than fifteen (15) days after entry of the Confirmation Order.

All such claims shall be classified as Class 5 Claims and shall receive Class 5 treatment under the Plan.

**ARTICLE X: CONDITIONS PRECEDENT.**

**A. Conditions Precedent to Confirmation.**

The following are conditions precedent to confirmation of the Plan that may be satisfied or waived in accordance with Article X, ¶C.

1           The Bankruptcy Court shall have approved by Final Order a  
 2 Disclosure Statement with respect to the Plan in form and substance  
 3 reasonably acceptable to the Plan Proponent.

4           The Bankruptcy Court shall have approved a sale of the Real  
 5 Property free and clear of liens, claims and interests before or  
 6 during the Plan confirmation process. Said sale may be made subject  
 7 to overbid and may occur before Plan Confirmation or be made in lieu  
 8 of Plan Confirmation as permitted by the Code and the Order of the  
 9 Bankruptcy Court.

10          The Confirmation Order shall be in form and substance reasonably  
 11 acceptable to the Plan Proponent.

12          **B. Conditions Precedent to Consummation of the Plan.**

13          The following are conditions precedent to the occurrence of the  
 14 Consummation Date, each of which may be satisfied or waived in  
 15 accordance with Article X, ¶C, including the passage of 60 days after  
 16 the date on which the Bankruptcy Court enters the Confirmation Order  
 17 and the commencement of Distributions under the Plan.

18          The date of Confirmation shall have occurred and the Confirmation  
 19 Order shall, among other things, provide that:

20           (a) The provisions of the Confirmation Order are nonseverable and  
 21 mutually dependent;

22           (b) Except as expressly provided in the Plan or the Confirmation  
 23 Order, as allowed by applicable law, the Company is discharged  
 24 effective upon the date of Confirmation from any "debt" (as that  
 25 term is defined in Code §101(12));

26           (c) the Company's liability in respect thereof is extinguished  
 27 completely, whether reduced to judgment or not, liquidated or  
 28 unliquidated, contingent or noncontingent, asserted or unasserted,

fixed or unfixed, matured or unmatured, disputed or undisputed, legal or equitable, or known or unknown, or that arose from any agreement of the Company that has either been assumed or rejected in the Case or pursuant to the Plan, or obligation of the Company incurred before the date of Confirmation, or from any conduct of the Company prior to the date of Confirmation, or that otherwise arose before the date of Confirmation, including, without limitation, all interest, if any, on any such debts, whether such interest accrued before or after the Petition Date;

(d) Except as provided in connection with the sale of the Real Property subject to Bankruptcy Court approval free and clear of liens, claims and interests, the Plan does not provide for the liquidation of all or substantially all of the property of the Company and its Confirmation is not likely to be followed by the subsequent liquidation of the Reorganized Company or the need for further financial reorganization; and

(e) No request for revocation of the Confirmation Order under Code §1145 shall have been granted.

**C. Waiver of Conditions to Confirmation and to Consummation.**

The conditions set forth in this Article X may be waived by the Plan Proponent without notice or a hearing. The failure to satisfy or waive any condition to Confirmation or the date of Consummation may be asserted by the Plan Proponent regardless of the circumstances giving rise to the failure of such condition to be satisfied (including any action or inaction by the Plan Proponent). The failure of the Plan Proponent to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right, which may be asserted at any time.

1       **ARTICLE XI: REVOCATION, MODIFICATION AND AMENDMENT.**

2             Subject to the restrictions on Plan modifications set forth in  
 3 Code §1127, the Plan Proponent reserves the right to alter, amend or  
 4 modify the Plan so long as such alteration, amendment or modification  
 5 is consistent with the requirements of Code §§1122 and 1123, and  
 6 before the substantial consummation of the Plan. The Plan Proponent  
 7 reserves the right to revoke or withdraw the Plan so long as such  
 8 revocation or withdrawal is prior to the date of Confirmation. If the  
 9 Plan Proponent withdraws or revokes the Plan in accordance with this  
 10 section, or if Confirmation does not occur, then the Plan shall be  
 11 null and void in all respects.

12       **ARTICLE XII: EFFECT OF CONFIRMATION.**

13       **A. Discharge of Claims and Termination of Interests.**

14             Except as otherwise provided in the Plan or the Confirmation  
 15 Order, the rights afforded under the Plan and the treatment of Claims  
 16 under the Plan shall be in exchange for and in complete  
 17 satisfaction, discharge and release of all Claims, including any  
 18 interest accrued on Claims from the Petition Date. Except as  
 19 otherwise provided in the Plan or the Confirmation Order, and as  
 20 allowed by applicable law, Confirmation shall discharge the Company  
 21 from all Claims or other debts that arose before the date of  
 22 Confirmation, and all debts of the kind specified in Code §§502(g),  
 23 502(h) or 502(i), whether or not: (i) a proof of Claim based on such  
 24 debt is Filed or deemed Filed pursuant to Code §501; (ii) a Claim based  
 25 on such debt is allowed pursuant to section 502 of the Bankruptcy  
 26 Code; or (iii) the holder of a Claim based on such debt has accepted  
 27 the Plan.

1        As of the date of Confirmation, except as provided in the Plan  
 2 or Confirmation Order, all entities shall be precluded by the  
 3 Confirmation Order from asserting against the Company, the Estate of  
 4 the Company, the Reorganized Company, its successors or its  
 5 property, any other or further Claims, debts, rights, causes of  
 6 action, liabilities based upon any act, omission, transaction or  
 7 other activity of any kind or nature that occurred prior to the date  
 8 of Confirmation. In accordance with the foregoing, except as provided  
 9 in the Plan or Confirmation Order, the Confirmation Order shall be  
 10 a judicial determination of discharge of all such Claims and other  
 11 debts and liabilities against the Company, pursuant to Code §§524 and  
 12 1141, and such discharge shall void any judgment obtained against the  
 13 Company at any time, to the extent that such judgment relates to a  
 14 discharged Claim.

15        **B. United States Trustee's Fees & Reports.**

16        United States Trustee's Fees will be paid in accordance with 28  
 17 U.S.C. §1930(a)(6). The United States Trustee's fees shall be paid on  
 18 a quarterly basis and shall not accrue. Post-confirmation quarterly  
 19 reports will be filed in accordance with the United States Trustee  
 20 Chapter 11 Operating and Reporting Requirements and forms.

21        **ARTICLE XIII: JURISDICTION RETAINED.**

22        The Bankruptcy Court shall retain jurisdiction:

- 23        (i)      to determine the allowance of Claims and Interests upon the  
                     timely objection thereto;
- 24        (ii)     to approve, pursuant to Code §365, the assumption,  
                     assignment or rejection of any executory contract or  
                     unexpired lease of the Company except as otherwise provided  
                     in the Plan;

- (iii) to determine requests for payments of Claims entitled to priority under Code §507(a)(1), including compensation of parties entitled thereto;
  - (iv) to resolve controversies and disputes regarding the interpretation of the Plan or any exhibit thereto;
  - (v) to implement the provisions of the Plan and enter orders in aid of Confirmation and consummation of the Plan;
  - (vi) to adjudicate any disputes with holders of Claims or Interests or any causes of action;
  - (vii) to hear and determine all pending or future controversies, suits, and disputes that may arise under the Plan including, without limitation, disputes between the Company and the claimholders and controversies arising in connection with the interpretation of the Plan, including any and all schedules, documents, and exhibits hereto, or any documents intended to implement the provisions of the Plan;
  - (viii) to consider any modification, alteration, or amendment to the Plan;
  - (ix) to correct any defect, cure any omission, or reconcile any inconsistency in the Plan, including any Exhibit thereto, or in any order of the Bankruptcy Court, including the Confirmation Order, as may be necessary to carry out the purposes and intent of the Plan and to implement and effectuate the Plan;
  - (x) to determine such other matters as may be provided for in the Confirmation Order or other orders of the Bankruptcy Court

1 as may be authorized under the provisions of the Bankruptcy  
2 Code or any other applicable law;

- 3 (xi) to enforce all orders, judgments, injunctions, and rulings  
4 entered in connection with the Chapter 11 Case; and  
5 (xii) to enter a final decree closing the Chapter 11 Case.

6 **ARTICLE XIV: MISCELLANEOUS PROVISIONS.**

7 **A. Discharge of the Company.**

8 To the extent allowed by applicable law, all property  
9 distributed under the Plan shall be in exchange for, and in complete  
10 satisfaction, settlement, discharge, and release of, all debts,  
11 demands, liabilities and Claims of any nature whatsoever against the  
12 Company or any of its assets or properties, and, except as otherwise  
13 provided herein or in the Confirmation Order. Upon the date of  
14 Confirmation, the Company shall be deemed discharged and released  
15 under Code §1141(d)(1)(A) from any and all debts as appropriate. The  
16 Confirmation Order shall be a judicial determination of discharge of  
17 all liabilities of the Company, subject to the occurrence of the  
18 Consummation Date.

19 **B. Binding Effect.**

20 The Plan shall be binding upon and inure to the benefit of the  
21 Company, the holders of Claims, the holders of Interests, and their  
22 respective successors and assigns.

23 **C. Revocation, Withdrawal or Non-Confirmation.**

24 **1. Right to Revoke or Withdraw.**

25 The Plan Proponent reserves the right to revoke or withdraw the  
26 Plan at any time prior to the Confirmation Date.

1           **2. Effect of Withdrawal, Revocation or Non-Confirmation.**

2           If the Plan Proponent revokes or withdraws the Plan in  
3           accordance with Article XI prior to the date of Confirmation, or  
4           if Confirmation or the Consummation Date does not occur, then the  
5           Plan, any settlement or compromise embodied in the Plan  
6           (including the fixing or limiting to an Amount certain any Claim  
7           or Class of Claims unless such settlement or compromise is also  
8           embodied in a separate agreement), assumption or rejection of  
9           executory contracts or leases effected by the Plan, and any  
10          document or agreement executed pursuant to the Plan, shall be  
11          deemed null and void. In such event, nothing contained herein,  
12          and no acts taken in preparation for consummation of the Plan,  
13          shall be deemed to constitute a waiver or release of any  
14          Claims by or against the Company or any other person, to  
15          prejudice in any manner the rights of the Company or any person  
16          in any further proceedings involving the Company, or to  
17          constitute an admission of any sort by the Company or any other  
18          person.

19           **D. Notices.**

20          Any notice required or permitted to be provided to the Plan  
21          Proponent shall be in writing and served by: (a) certified mail, return  
22          receipt requested; (b) hand delivery; or (c) overnight delivery service  
23          to be addressed as follows:

24          Fanita Ranch, LP, A California Limited Partnership  
25          2055 Corte Del Nogal  
26          Carlsbad, CA 92011                              With a copy to:

27          WILLIAM A. SMELKO, APC  
28          3333 Camino Del Rio South, Suite 140  
  San Diego, CA 92108

1           **E. Term of Injunctions or Stays.**

2           Unless otherwise provided for in the Plan or the Confirmation  
3 Order, all injunctions or stays provided for in the Chapter 11 Case  
4 under Code §§105 or 362, or otherwise, and in existence on the date of  
5 Confirmation, shall remain in full force and effect until the  
6 Effective Date.

7           **F. Prepayment.**

8           Unless the Plan or Confirmation Order otherwise provides, the  
9 Reorganized Company shall have the right to prepay, without penalty,  
10 all or any portion of an Allowed Claim at any time; provided, however,  
11 that any such prepayment shall not violate, or otherwise prejudice,  
12 the relative priorities and parities among the Classes of Claims.

13           **G. Choice of Law.**

14           Except to the extent that the Bankruptcy Code, Bankruptcy Rules  
15 or California General Corporation Law are applicable, and subject to  
16 the provisions of any contract, instrument, release or other  
17 agreement or document entered into in connection with the Plan or  
18 this Disclosure Statement, the rights and obligations arising under  
19 the Plan and this Disclosure Statement shall be governed by, and  
20 construed and enforced in accordance with, the laws of the State of  
21 California without giving effect to the principles of conflict of  
22 laws of the State of California.

23           **H. Headings.**

24           The headings are for convenience only and will not control or  
25 affect the meaning or construction of the provisions of this Plan.  
26 When a reference is made in this Plan to a Section, Article, Exhibit  
27 or Schedule such reference shall be to a Section, Article, Exhibit or  
28 Schedule of this Plan unless otherwise indicated. Whenever "include,"

1 "includes," or "including" is used in this Plan, it shall be deemed to  
2 be followed by the words "without limitation." Whenever "or" is used  
3 in this Plan it shall be construed in the nonexclusive sense.

4 July 6, 2010      /S/ Michael Armstrong  
5 General Member  
6 Fanita Ranch, LP,  
A California LP

/s/ William A. Smelko  
WILLIAM A. SMELKO, APC  
Attorneys for  
Debtor-in-Possession